

Geoff Baker

From: Geoff Baker [gabaker@dowellbaker.com]
Sent: Tuesday, May 27, 2008 4:20 PM
To: 'Edward Manzo'
Cc: 'Alex, Louis'; 'Joel Bock'; 'Jason Smalley'; 'Sasamoto, Nancy E.'; 'Katz, Steven L,'; 'George Kobayashi'; 'Francissen, Vernon'; 'robert@karton.us'
Subject: RE: Miyano trademark litigation - 08-CV-526

Ed,

Setting aside your comments about our clients, we understand that you have agreed in principle to an extension. Thank you.

Provided that you agree to June 6 (and thus June 20 for your reply), we will agree that no further extensions shall be sought. This schedule will still give Judge Kendall ample time to digest the briefs in advance of the hearing date.

Regarding the witness that you mentioned bringing live, we have already agreed to consider whatever proposal you have to offer regarding the photographer and have already indicated that we do not anticipate deposing that witness. We are simply waiting for you to provide us with the photograph's bates number and the proposed stipulation.

We look forward to your response and appreciate your consideration.

Geoff

Geoffrey A. Baker
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From: Edward Manzo [mailto:emanzo@cookalex.com]

Sent: Tuesday, May 27, 2008 2:52 PM

To: 'Geoff Baker'

Cc: 'Alex, Louis'; 'Joel Bock'; 'Jason Smalley'; 'Sasamoto, Nancy E.'; 'Katz, Steven L,'; 'George Kobayashi'; 'Francissen, Vernon'; 'robert@karton.us'

Subject: RE: Miyano trademark litigation - 08-CV-526

Geoff and Bob,

We assume that Tom and Steven are able to receive email wherever they are right now, and the fact that they are (or one of them is) out of the country is largely irrelevant. They can read a brief in whatever part of the civilized world they are in. Are they somewhere in the middle of the Amazon or on an Antarctic expedition with no email? No doubt you would send them the draft brief for review by email before filing it, and if they happen to collect their email from another city, it matters not to you. Indeed, it probably gives you an advantage if they are in the Far East or India, since they can turn the document around overnight. So the plea that one of them is away is not persuasive. Further, the fact that one or both of

them would leave town at this juncture indicates that they have no interest nor need to review the brief anyway.

This brief should have been filed last Friday. You cannot possibly ask us to believe that you haven't put it in nearly final form already.

Bob indicated that Tom would return on June 1. Accepting that premise, what's wrong with filing defendants' brief on June 2 or June 3?

There have been too many extensions, and we are loathe to consider yet another one. Please let us know if in exchange for agreeing to extend to June 2, defendants agree that they will seek no further extensions regarding the preliminary injunction and that if the moved deadline comes and goes without an answering brief being filed with the clerk of the court, then defendants waive the right to file one, and no answering brief will be filed for defendants.

Further, we would expect your agreement to work with us in getting a stipulation about the photographs that were recently produced to you. I understand that the person who took the photographs will be available in Chicago some time next week if you must have his deposition.

Judge Kendall gave us 2 weeks for our reply, as we understood her – June 13 is what she indicated, assuming that the hearing would be in July.

Sincerely,

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Cook, Alex, McFarron, Manzo, Cummings & Mehler, Ltd.

From: Geoff Baker [mailto:gabaker@dowellbaker.com]
Sent: Tuesday, May 27, 2008 2:23 PM
To: 'Edward Manzo'
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Thank you, Ed.

Please let us know whether you would now agree to allow an additional week for the response and the reply (in fact, if you would like to have an additional two weeks on the reply, we would be happy to agree to that). At least one of our clients is out of the country. Also, one of our key attorneys is out this entire week. We understand your desire to get our brief. We are simply asking for an additional week due to circumstances that neither Bob or I realized during the hearing with Judge Kendall. We are hopeful that you will agree to this additional, brief extension.

Geoff

Geoffrey A. Baker

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From: Edward Manzo [mailto:emanzo@cookalex.com]
Sent: Tuesday, May 27, 2008 2:16 PM
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Cc: 'Alex, Louis'; 'Joel Bock'; 'Jason Smalley'; 'Sasamoto, Nancy E.'; 'Katz, Steven L.'; 'George Kobayashi'; 'Francissen, Vernon'; robert@karton.us
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Geoff,

Since we the court has stricken June 13, then Friday, July 18 beginning at 10:00 AM seems agreeable for the preliminary injunction hearing. While are confirming that date with our clients, we don't expect that to be an issue for us. Please be sure that both Tom and Steven Miyano will be in town on that date.

Sincerely,
Edward D. Manzo
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Cook, Alex, McMarron, Manzo, Cummings & Mehler, Ltd.

From: Geoff Baker [mailto:gabaker@dowellbaker.com]
Sent: Tuesday, May 27, 2008 1:36 PM
To: Kenneth_Wood@ilnd.uscourts.gov
Cc: 'Edward Manzo'
Subject: Miyano trademark litigation - 08-CV-526

Ken:

Could you please let us know at what time Judge Kendall would end the hearing on July 11 and also whether July 18 is available for her to hear Plaintiff's motion for preliminary injunction.

Thank you.

[Geoff](#)

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